



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R01-OAR-2014-0604; FRL-9981-23-Region 1]**

#### **Air Plan Approval; Vermont; Infrastructure Requirement for the 2010 Sulfur Dioxide National Ambient Air Quality Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Vermont. This revision addresses the interstate transport requirements of the Clean Air Act (CAA), referred to as the good neighbor provision, with respect to the primary 2010 sulfur dioxide (SO<sub>2</sub>) national ambient air quality standard (NAAQS). This action approves Vermont's demonstration that the State is meeting its obligations regarding the transport of SO<sub>2</sub> emissions into other states. This action is being taken under the Clean Air Act.

**DATES:** This rule is effective on **[Insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2014-0604. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at [www.regulations.gov](http://www.regulations.gov) or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of

Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA.

EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Donald Dahl, Air Permits, Toxics, and Indoor Programs Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109 - 3912, tel. (617) 918-1657; or by e-mail at [dahl.donald@epa.gov](mailto:dahl.donald@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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## **I. Background and Purpose**

On November 2, 2015, the Vermont Department of Environmental Conservation (VT DEC) submitted a formal SIP revision certifying that its SIP was adequate to meet the program elements required by Section 110(a)(2) of the CAA with respect to the 2008 ozone, 2010 primary nitrogen dioxide (NO<sub>2</sub>), and 2010 primary SO<sub>2</sub> NAAQS (2015 SIP submittal). On June 27, 2017 (82 FR 29005), the EPA approved most of the State's submission. The EPA conditionally approved the State's submission in relation to subsections (C), (D), and (J) of CAA Section 110(a)(2) for the prevention of significant deterioration permit program. At that time, the EPA

did not take action on the State's submittal regarding VT DEC's certification that its SIP met the requirements of Section 110(a)(2)(D)(i)(I) for the 2010 primary SO<sub>2</sub> NAAQS.

On April 10, 2018 (83 FR 15336), the EPA published a Notice of Proposed Rulemaking (NPR) for the portion of the 2015 SIP submittal that demonstrated Vermont's SIP meets the infrastructure requirements of Section 110(a)(2)(D)(i)(I) for the 2010 primary SO<sub>2</sub> NAAQS. The rationale for the EPA's proposed action is explained in the NPR and will not be restated here.

## **II. Response to Comments**

The EPA received four comments during the comment period. The comments discuss subjects outside the scope of an infrastructure SIP action, do not explain (or provide a legal basis for) how the proposed action should differ in any way, and make no specific mention of the proposed action. As such, they are not germane and do not require further response to finalize the action as proposed.

## **III. Final Action**

The EPA is approving Vermont's November 2, 2015 infrastructure submittal for the 2010 primary SO<sub>2</sub> NAAQS as it pertains to Section 110(a)(2)(D)(i)(I) of the CAA.

## **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 26, 2018.

Alexandra Dunn,  
Regional Administrator,  
EPA Region 1.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

### **Subpart UU - Vermont**

2. Section 52.2370 is amended in paragraph (e) table by adding the entry “Transport Element of the Infrastructure SIP for the 2010 SO<sub>2</sub> NAAQS” after the entry “Infrastructure SIP for the 2010 SO<sub>2</sub> NAAQS” to read as follows:

#### **§ 52.2370 Identification of plan.**

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(e) \* \* \*

#### **VERMONT NON-REGULATORY**

<b>Name of non-regulatory SIP provision</b>	<b>Applicable geographic or nonattainment area</b>	<b>State submittal date/effective date</b>	<b>EPA approved date</b>	<b>Explanations</b>
**	*	*	*	**
Transport Element of the Infrastructure SIP for the 2010 SO <sub>2</sub> NAAQS	Statewide	November 2, 2015	<b>[Insert date of publication in the Federal Register]</b>  <b>[Insert <u>Federal Register</u> citation]</b>	Approved submittal meets the requirements of Section 110(a)(2)(D)(i)(I) for the 2010 SO <sub>2</sub> NAAQS
* *	*	*	*	* *

[FR Doc. 2018-16413 Filed: 7/31/2018 8:45 am; Publication Date: 8/1/2018]